FOR MYSORE STATE

BEFORE THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT

MADRAS.

ADDITIONAL SECRETARIAT TO GOVERNMENT
8-MAY 1952
28704A
REVENUE DEPARTMENT

18137A
REVENUE DEPARTMENT

Mukund Krishna Nayak, landholder, residing in Udiavar village, Kasaragod Taluk, South Kanara District, Post: Manjeshwar.) Memorialist

Most Respectfully Sheweth:

That the Memorialist, being highly aggrieved by the Resolution of the Board of Revenue, Land Revenue, Routine No.1442 D/- 6-3-'52, rejecting his petition against the order of the Collector of South Kanara Ref.C.No.A.22761/51 D/- 14-11-'51 dismissing his appeal against the eviction order under Sec.6 of the L.E.Act passed by the R.D.O.Puttur in B.M.R.42/60 on the file of the Tahsildar of Kasaragod for the removal of the encroachment in R.S.No.138/1 of Udiavar village, begs humbly to approach the benign Government with this Memorial with the fervent hope that the benign Government will be gracious enough to grant his request.

2. That the Memorialist submits that as a Congressman he was anxious to implement the principle of the Congress Government, and as the Government, have been encouraging the Vana Mahotsava celebrations annually, Memorialist entered upon his own Kumki land R.S.No.138/1 of Udiavar village on the Vanamahotsava day of 1950 and planted 36 cocoanut plants which were then 3 years old in the plot in question and fenced the plot with a strong fence at a heavy cost so as to protect the plants from ravages by stray cattle. The inaugur ceremony of planting the cocoanut plants on the auspicious Vana Mahotsava day was done with great pomp and ceremony under the Presidency of Sri M-Appu Rao, B.A.,B.L.,Retired Hazur Sheristadar and no objection of any kind was raised at the time either by the Shanbhogue or by the Revenue Inspector who were present at the time and who were in the procession connected with the celebrations.

3. That the Memorialist submits that the plot being Kumki to his Kadim land, he did not anticipate any trouble or objection from the Authorities and it is only after the expiry of more than a year after this planting the encroachment proceedings of evicting him from the plot were started evidently under the pursuation of the Memorialist's neighbour one Mr. J.F.Vas, Retired Sub-Registrar, who is residing in an adjoining plot. That the Memorialist submits that he was completely ignorant of the fact that the Kumki privilege in Manjeshwar have been withdrawn and it was impossible for him to know it as no notification of any kind was published or served on the Wargdars proposing the withdrawal of their Kumki privileges while on the other hand, the Memorialist was actually granted a portion of the Kumki on darkhast some years back.

4. That the Memorialist submits that the plot in question had remained unassigned to him at that time as it was within ½ a mile from Manjeshwar Railway Station but as subsequent events showed that the requirements of the Railway Department, have already been completed and that even lands very near the Railway Station have been assigned or leased, the Memorialist honestly thought that his occupati of his own kumki by planting trees in a commemoration of t celebration of the Vanamahotsava day would not be objected to in any way.

5. That the Memorialist submits that the Collector's observation that the plot is used by the public as a place of public resort and that it will be necessary for future requirements is not quite correct. It is out of the way site, never used by the public, neither is it likely to be used by the public; It is on this ground that it had been selected and used for Toddy and Arrack shops which were shifted to the site in question from their original site which was in the heart of the town during non-prohibition days. Moreover the Collector seems to have passed his order in question on the

remarks of the R.D.O. who surely cannot be expected to offer any remarks favourable to the Memorialist when he himself passed the order of eviction.

6. That the Memorialist submits that the fact that the planting was done with great pomp and ceremony in celebration of the Vana Mahotsava day which is encouraged by the Government and for which the Govt. have subsequently issued a revised scheme for award of prizes and must surely be sufficient to prove that his case is one which deserved encouragement and that it is not one calling for such a drastic step as eviction under the L.E.Act.

7. That the Memorialist submits that there can be no doubt that outright assignment of the plot to the Memorialist is really unobjectionable as it forms exclusive Kumki to him and that in case it is considered that permanent assignment should not now be ordered, this Memorialist has no objection to obtain it on lease on such terms and conditions as may be necessary to be imposed.

8. That the Memorialist's anxiety is that the improvement made should be allowed to stand especially as it was done in celebration of the Vanamahotsava Day and that therefore he is prepared to yield further, that if even the grant of lease cannot now be ordered, all that he wants is that his planting should be allowed to stand under any circumstances as he wants to water it himself and take care of the plants till they grow into yielding trees and exhibit to the public how if every one of us takes to planting the food problem can be solved easily and the shortage which is now felt can be avoided.

That the Memorialist submits that the benign Government will be convinced that the assignment of the plot to the Memorialist is quite unobjectionable if the Government calls for independent remarks of any of the M.L.A who have been elected recently in the general elections as

it is impossible to expect very favourable remarks from the officers who had already come to decisions which are unfavourable to him.

10. That the Memorialist therefore prays that the benign government may be graciously pleased to refer this case to any one of the local M.L.As recently elected and after obtaining their remarks and the connected records to cancel the eviction so that the improvements may be allowed to stand on whatever terms the Government are pleased to impose.

11. That the Memorialist further prays that pending final decision on this Memorial, the eviction may kindly be stayed.

For which act of benevolence and justice the Memorialist will ever pray.

Manjeshwar,)
)
D/-24-3-1952)

V Ammu Kunhi Nayak.

Memorialist.

Copy to the Minister for Food Sri K.M.Munshi,
Government of India, New Delhi, for
favour of information.

Resubmitted:

Re- Encroachment of Land - South Kanara
Kasargod Taluk - Edivara village -
Enquiry

Respected Sir,

With reference to Endorsement 14 W 18137 A/52 dated 4.4.1952, I beg to submit herewith enclosed copies of orders passed the Board of Revenue and the Collector of South Kanara

Yours faithfully
[illegible]
16/4/52.

Enclo: Two only

Copies

N. Dis E. 2954/52 dated 24.4.52

Submitted to the Govt. to whom this is addressed.

A. Govt 3/5
Asst Secretary
Govt 23/4 Board of Revenue

To
The Secretary to Govt.
R.D.

Office of the Board of Revenue

Resln. Rout. 1442 Madras, 6th March 1952.

Sri W.R.S. Sattianathan, I.C.S., Commissioner of Land Revenue.

Subject: Encroachment - Land (South Kanara district) - Kasarago taluk - Udyavara village - R.S.138/1 - Eviction - Revision petition - Rejected.

Read: Petition from Sri M.Mukund Krishna Nayak dated 29/11/51.
Letter from the Collector, South Kanara, Refce.C.No.A-1-32778/51-3 dated 18-2-52.

RESOLUTION:

The Board has perused the connected records, and sees no reason to interfere with the Collector's order appealed against. The petitioner is rejected and the stay granted in Board's reference E.10324/51-1 dated 7/12/51 is vacated.

V. AKILANDESWARAN.
Additional Assistant Secy.

To The petitioner, Sri M.Mukund Krishna Nayak, Landholder, Udyavara village, Manjeswar Kasaragod taluk, South Kanara district.
To The Collector of South Kanara (with two files returned).

Forwarded/by Order/

SUPERINTENDENT.

6/3

Sri A.R.S.Sattianathan, I.C.S., Commissioner
of Land Revenue.

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Subject:- Encroachment - Land - (South Kanara) - Kasaragad Taluk Udayavara village - S.No.138/1 - Eviction - Revision petition.

Read:- Petition from Sri M.Mukund Krishna Nayak dated 29-11-51.

Proceedings of the Collector of South Kanara, Mangalore.

Present: Sri. A. R.Rajaratnam, B.A.,

Ref. C. No. A. 1-22761/51 dated 14-11-1951.

ENCROACHMENT: - Land Kasaragod Taluk - Udyavara Village - S.No. 138/1 - Encroachment by Sri. Mukunda Krishna Nayak Eviction Order - Appeal - Orders Passed .

READ: (1) Petition of Sri. Mukunda Krishna Nayak Manjeshwar Dated 17-8-5
2) Ref. B.M.R. 42/60 dated 1-10-1951 of the Tahsildar Kasaragod.
3) N.Dis 6853/51 dated 15-10-1951 of the Revenue Divisional Officer, Puttur and
4) Other records of enquiry.

This is an appeal petition filed by Sri. Mukunda Krishna Nayak of Manjeshwar against the orders of eviction dated 29-6-1951 of the Revenue Divisional Officer, Puttur in B.M.R. 42/60 of the Tahsildar Kasaragod directing the Appellant to remove the encroachment from R.S. No. 138/1 of Udyavara village.

2. I have carefully perused all the records and heard the arguments of the Appellant's Counsel. The Appellant has planted 36 coconut plants in R.S. No. 138/1. His contentions are that the plot forms Kumki to his Kadim land and that he planted the coconut trees in persuance of the Vanamahothsava Scheme and hence the plot should be assigned to him or leased out or in the alternative tree Pattas should be issued to him for the plants. The plot has been inspected by the Revenue Divisional Officer, Puttur and he has found the occupation objectionable. Manjeshwar being a town, there are no kumki previledges attached to any kadim land. Hence the appellant's claim to this land on that ground is untenable. The plot is situated close to the main roads and being in the heart of the town is used by the public and a place of public resort. It cannot be allowed to be converted into a tope and allowed to be enjoyed by a single individual like the appellant. It is also reported that it will be necessary for future requirements under the Post War Development scheme. Hence it cannot be granted to the appellant either on assignment, lease or on tree patta. The plants are only young and no hardship will be caused by their removal. I therefore see no reason to interfere with the order of the Revenue Divisional Officer, Puttur. The appeal is rejected.

3. Dictated to shorthand and typewritten this 14th day of November 1951.

Rev. Dept

Please see

Memo. No. 28704 A/52.1 D. 17.5.52

19.5.52 Encroachment - Land (South Kanara) - Kasargod Taluk - Udyavara village - R.S. No. 138/1 - Enclosures

ppl. & cr. From Sri M. Mukund Krishna Nayak, petitioner D 24.3.52

R.S. 22/5/52

The Govt. decline to give any relief in the matter. The petition is rejected

17/5/52

Sri M. Mukund Krishna Nayak
17/5/52

Land Holder Udyavara village
Kasargod Taluk.
South Kanara Dt
Manjeshwar P.O

Rev. Dept.

Encroachment. Land - (South Kanara)
Kasaragod Taluk - Udyavara village - R.S. 138/1
Eviction.

From Sri N. Mukund Krishna Naik, petition &
Ors

Pl. see the petition orp p 1-4 cf

The Case relates to encroachment in RS No 138/1 of Udyavara village Kasaragod taluk by planting arecanut trees

The Contentions of the petr. are that the trees were planted in pursuance of the Varamadukkam clause and that the encroachment is unobjectionable. He has stated that after the expiry of ~~subsequent~~ more than 2 years after planting, ~~encroachment~~ eviction proceedings were taken against him evidently under the ~~while planting the trees~~ persuasion of his neighbour and that he was not aware that kumiki privilege has been withdrawn. He has contended that it is out of the way, site never used by the public nor is it likely to be used by the public and ~~that though it is within forty a mile from Manjeshwar Railway Station~~. He has therefore requested that the land may be measured and ~~to~~ leased out to at least the plants should be moved to him or ~~that he be allowed that the plants~~ him for the plants ~~may be allowed to stand~~.

It will be seen from the proceedings of the Collr orp 8 cf that the encroachment is objectionable ~~Manjeshwar being town~~ and the petitioner's request is untenable. The plot is situated close to the main roads and being in the heart of the town is used by the public as a park & public resort. The Collr. ~~has held~~ is of the view that it should not be allowed to be converted into a topse and allowed to be enjoyed by a single

individual by the petitioner. It is also reported that it will be necessary for future requirements under Post War Development Scheme. Hence it is considered that it should not be granted to the ~~applicant~~ petitioner either on assignment, lease or on free patta ~~In the Circumstances stated above the Collr rejected the petr. request. The petr~~ appealed to the Board of Rev. Against the Collr's order of eviction. But the Board declined to interfere on behalf of the petr.

It is stated that in land encroachment cases the Board is the final appellate authority and no appeal lies to Govt. Both the Collr. have observed that the plants are only young and no damage will be caused to petitioner by their removal.

In the circumstances it is for Government to consider whether the petition may be rejected.

14/9/52

11/9/52